



26th April 2002

Ms. Anne Moloney
Dupty Head of Economic Affairs
Commission for Aviation
36 Upper Mount Street
Dublin 2

Dear Anne,

Ryanair's comments on CP4/2002 – Implementation of the Levy

Ryanair agrees with the Commission's proposals for allocating its costs based on the relationship of those costs to a particular regulatory area. Ryanair also strongly supports the Commission's proposal to allocate some of these costs to Aer Rianta and the IAA.

1. Allocation of Costs for Review of Airport Charges

The consultation paper indicates that the Commission is already levying the entirety of these costs on the airlines by invoicing Aer Rianta and allowing Aer Rianta to recover these costs through the maximum allowable yield. These costs are therefore ultimately borne by consumers through higher airfares.

However, the Commission recognises that the airline users (and indirectly the consumer) should not have to bear the entirety of the Commission's regulatory costs. As the Commission notes, Aer Rianta also benefits from regulation through improved certainty and reduced capital costs, etc. Aer Rianta has also benefited from the process that the Commission and its consultants have undertaken to evaluate Aer Rianta's costs and its efficiency relative to other airports. This is an exercise that private companies commonly undertake, at great expense, to improve their efficiency and competitiveness.

Furthermore, the whole need for regulation is due to Aer Rianta's excessive prices and gold-plated facilities. Aer Rianta dramatically increased airport costs in the years prior to the Commission's appointment and attempted to copper fasten an inflated asset base and planned capex in order to increase charges further. Users, and more particularly consumers, should not have to suffer further costs as a result of Aer Rianta's abuse of its monopoly position.

Ryanair acknowledges that airport users benefit to some extent from the protection afforded by the Commission and the moderate decrease in airport charges in the Determination. However, the Commission should allocate the majority of the costs to Aer Rianta for the above reasons. Furthermore, Aer Rianta should not be allowed to pass these costs on and should fund them out of non-aeronautical operations.

2. Allocation of Legal Costs Due to Aer Rianta's Judicial Review of the Determination

The users and inevitably consumers should not be forced to pay the Commission's legal costs arising from Aer Rianta's challenge of the Determination. Ryanair notes that these costs account for *over 50%* of the €3.8 million in regulatory costs to be recovered for 2002. These costs are completely unnecessary and are, in Ryanair's opinion, the result of Aer Rianta's further attempt to derail the regulatory process.

Section 40 of Aviation Regulation Act provides for the establishment of an appeals panel to consider an appeal by a person or persons who is/are aggrieved by the determination. Although such a panel was established, Aer Rianta chose not to formally take part in the appeals process, although it sought to influence the Panel indirectly. Aer Rianta instead applied for a judicial review, a much more expensive and time-consuming process.

Aer Rianta should therefore have to bear the full costs of this litigation and should not be allowed to pass them on to users.

3. Terminal Service Charges

Ryanair agrees with the Commission's proposal that the IAA should bear part of the regulatory costs.

4. Costs Related to Airport Co-Ordination

The Commission should impose any costs related to airport co-ordination on Aer Rianta and prohibit it from recovering these charges from users. The users of Dublin Airport were unanimous that there was no need for co-ordination and that any congestion was temporary and was the result of Aer Rianta's mismanagement. The independent consultant appointed by the Department of Public Enterprise, SH&E, also confirmed that there was no justification for co-ordination. Aer Rianta nevertheless unilaterally appointed ACL as schedules co-ordinator, with no prior consultation of users. Prior to this, Aer Lingus provided this service at a limited cost and to the satisfaction of all of the users.

Ryanair is of the opinion that Aer Rianta's motivation for trying to impose full co-ordination on Dublin Airport and its appointment of ACL as schedules co-ordinator was for the purpose of increasing the value of the airport prior to a possible flotation. The users should not have to pay for Aer Rianta's mismanagement and attempt to increase its own value.

5. Other Airline Related Costs

For costs related to air carrier licensing and ground handling, the Commission should levy cost related charges that apply equally to all (Irish licensed) airlines for licensing and to approved ground handlers using the regulated airports.

Furthermore, we note that Aer Rianta is currently imposing an "administrative fee" on ground handlers, which is not justified and which we contend should have been approved/rejected by the Minister before the appointment of the Commission and now falls

within the remit of the Commission. We therefore call on the Commission to force Aer Rianta to withdraw this illegal fee and to refund operators any fees that have been paid. The purpose of the Ground Handling Directive is to **reduce** the costs of ground handling services, not to increase them as Aer Rianta has done.

Yours sincerely,

Jim Callaghan
Head of Regulatory Affairs